

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

ROBERT L. LOOS,

Plaintiff,

-vs-

Case No: 02-3667

KEYSTONE SHIPPING COMPANY,

Defendant.

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**PLAINTIFF'S REPLY TO DEFENDANT'S COUNTER MOTION**  
**FOR DISMISSAL AND/OR TRANSFER**

NOW COMES Plaintiff in opposition to Defendant's counter Motion responding to the particular allegations therein made as follows:

1. Admitted; moreover, that is from where the inadequate maintenance checks were sent. (Exhibit A).
2. Admitted; moreover, Delaware is in the Third Circuit and its federal courts are not bound by a rate of maintenance contained in a collective bargaining agreement..
3. Admitted for purposes of this Motion only.
4. Admitted; moreover, Beaumont, Texas is not in the proposed transferee forum..
5. Admitted for purposes of this Motion only.
6. Admitted for purposes of this Motion only.
7. Admitted for purposes of this Motion only.
8. Denied because a rate of maintenance contained in a collective bargaining agreement is not binding.
9. Admitted for purposes of this Motion only.

10. Admitted for purposes of this motion except for the projected fit for duty date, same being insufficient as a basis upon which to terminate maintenance and cure. Halcomb v Kimberly Clark Tissue Co., 200 AMC 2575 (S.D. Ala. 2000).

11. Neither admitted nor denied because of lack of information

12. Denied; this district is from where the inadequate maintenance payments emanated (see Exhibit A).

13. Denied.

14. Denied: conflict of law rules determine which State law to apply. Here, there is no State law to apply, albeit, the Pennsylvania six year contract statute of limitations can be looked to for analogy in applying laches.

15. Denied; the decision to make inadequate maintenance payments was made in this district.

16. Denied for all the above reasons.

WHEREFORE Plaintiff prays that Defendant's Counter Motion be denied.

Respectfully Submitted,

O'BRYAN BAUN COHEN KUEBLER

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Dated: November 22, 2002

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that on the \_\_\_\_ day of November, 2002 a copy of the foregoing was served on attorney for Defendant via first class mail, with postage fully prepaid thereon:

Paul A. Kettunen, Esq.  
399 Market Street, Second Floor  
Philadelphia, PA 19106

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Michele D. Wood